



St Elizabeth's Centre
Capability Policy & Procedure:
Managing Under-Performance

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Date Written	11/02/2022	Date Signed Off	
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Revision History

Version	Date	Page Number	Details of Change	Author

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RELATED POLICIES AND OTHER REFERENCES

This policy should be read in conjunction with our:

- **Equal Opportunities Policy**
- **Absence Management Policy**
- **Disciplinary Procedure**

CQC Fundamental Standards	
Regulation Number	Regulation Details
Key Question	
Key Question	How this applies to:
Links to Related Legislation / Best Practice	
Equality Act 2010	

St. Elizabeth's Centre

Capability Policy & Procedure

Managing Under-Performance

1.0 Introduction

- 1.1 This policy applies to all of St Elizabeth's staff who have successfully completed their probation period and establishes guidelines for managers and staff in relation to the management of under performance.

This policy is designed to ensure that cases of under-performance are dealt with similarly and fairly, with the prime objective of improving an individual's performance to the required level.

All managers have a responsibility for setting realistic and measurable standards of performance, for explaining these standards carefully to members of staff and for supporting staff to achieve the standards set.

All new members of staff will have their job explained to them on arrival at St Elizabeth's Centre and will be given a copy of, or referred to, any written guidance that exists in relation to their area of work and will be given appropriate training and support to become familiar with it. Staff will also be made aware of the standards expected of them and where expectations change and evolve over time, managers have a responsibility to inform staff of these changes.

All members of staff have a contractual responsibility to perform their duties to an acceptable standard and they should be given all reasonable support and encouragement to do so.

For the purpose of this policy an individual's capability to do their job is assessed by reference to their skills, qualifications, aptitude, health or any other physical or mental quality.

2.0 Informal Stage

2.1 Stage 1

When there is evidence that an individual is not performing at an acceptable level, the manager should investigate the circumstances without delay and endeavour to ascertain the reasons for the unsatisfactory performance. If, following this investigation, the manager considers that the individual's performance is unsatisfactory in one or more areas they will raise their concerns with HR and consult with them before taking any action.

An informal discussion with the member of staff will then be arranged. At this meeting the manager will:

- Make clear the aspects in which the individual's performance is below the standard expected (explaining the grounds / evidence for this view) with the aim of identifying any problems or reasons for the under- performance, which could be resolved. The manager will put in place steps to support the employee to perform at a level that is acceptable to the organisation. This may include additional training, the provision of a mentor, coaching or other ongoing support to the individual.
- Give the individual the opportunity to explain their under-performance and to raise any concerns they may have about the job, or the support and guidance they have been given to do it.
- Consider the provisions of the Disability Discrimination Act, in particular the obligation to make reasonable adjustments when dealing with a disabled member of staff.
- Ensure that the member of staff is clear about the level of performance expected for the area/s of the job where they are under-performing.
- Set a reasonable time frame within which improvement is expected and arrange a further meeting at the end of this time to review the situation. When establishing “reasonable timescales” for improvement, managers must consider the complexity of the tasks involved in relation to the qualifications and experience of the individual.

2.2 The content and outcome of this meeting will be confirmed by the manager in writing to the individual, and will include the improvement required, additional support or training that will be provided, other agreed actions and the timescale for improvement and review.

2.3 When discussing under-performance managers must be specific about their concerns and must demonstrate evidence and/or give examples to support their opinion.

3.0 Formal Stages

3.1 Stage 2

a) If there is continued unsatisfactory performance or where a first instance of unsatisfactory performance is sufficiently serious to warrant formal action (e.g. where health and safety is at risk or significant costs or other liabilities are involved) the employee should be invited to a formal meeting to discuss the matter. At this meeting the employee will have the opportunity to explain their unsatisfactory performance. At this formal meeting reference will be made to earlier informal discussions (where these have happened) and the steps taken to support an improvement in the employee's performance. They will be told as clearly as possible, the reasons for the manager's continued concerns about their performance. If, having heard any explanations offered by the member of staff, the manager/supervisor remains

concerned, a Formal Caution will be given for unsatisfactory performance. This will be confirmed in writing to the individual. Further improvement targets will be set and a further timescale for improvement will be agreed.

- b) This formal caution will be placed on the individual's Personnel file and will be disregarded after a period of 2 years should their performance improve to the required standard and be sustained at this expected level.
- c) At this formal meeting further consideration should be given to any additional training or support that could reasonably be provided to the member of staff to enable them to reach the required standard of performance. A reasonable time period will be set within which improvement is expected and a further meeting arranged at the end of this time to review the situation.

3.2 Stage 3

- a) If there has been insufficient improvement in performance within the timescale following the formal caution, a further formal meeting will be held with the individual. At this interview the manager will review the history of the case, including the steps that have been taken to support the individual to achieve the required level of performance. If, having heard the explanation offered by the member of staff, the manager/supervisor remains concerned, a Final Caution will be issued for unsatisfactory performance. This will be confirmed in writing. The member of staff will be informed that their job will be at risk if satisfactory performance levels cannot be achieved and subsequently maintained.
- b) This caution will be placed on the individual's Personnel file and will be disregarded after a period of 2 years should their performance improve to the required standard and be sustained at this expected level.
- c) Further consideration should be given to any additional training or support that could reasonably be provided to the member of staff to enable them to reach the required standard of performance. A final review period will be set within which improvement is expected and a further meeting arranged at the end of this time to review the situation.

3.3 Stage 4

- a) If there has been insufficient improvement in performance within the timescale following the final caution, a final formal meeting with the member of staff will be held. At this meeting the manager will review the history of the case, including the steps that have been taken to support the individual to achieve the required level of performance. The individual's explanation will be heard and considered. A decision will then be taken to either dismiss the member of staff on the grounds of capability or to extend the final caution to allow further time for improvement and maintenance of any improvement. Dismissal decisions may be taken by a member of the Senior Leadership Team (SLT) or a senior manager as expressly nominated to consider a

specific case by a member of SLT. The manager will confirm this decision and the reasons for it in writing to the individual. The option of allowing further time for improvement may only be considered if there is evidence to persuade the manager that further time is likely to lead to the required improvement in performance. Advice should be sought by the manager from the Employee Relations team prior to any formal meeting that may lead to dismissal.

4.0 Ill-health / Poor Attendance

- 4.1 An individual's capability to carry out their role to the expected standard may be affected by their health and their attendance record. Managers must bear in mind the provisions of the Disability Discrimination Act, in particular the obligation to make reasonable adjustments when dealing with disabled members of staff.
- 4.2 The procedure for managing long-term periods of sickness absence is set out in full in the Sickness Absence Policy.
- 4.3 The early stages for managing repeated short-term absence is also set out in St Elizabeth's Sickness Absence Policy.
- 4.4 Lateness, which is deemed a conduct issue, is normally managed through the Disciplinary Procedure.

5.0 Notification and Representation

- 5.1 A member of staff will receive at least 48 hours advanced notice in writing of any formal meeting arranged under this policy. At all such meetings the member of staff has the right to be accompanied by a work colleague or trade union representative. Where witnesses are to be called by the manager/supervisor or the individual, prior notice of this should be given.
- 5.2 Where an individual's representative is unable to attend the meeting at the notified time, the meeting will be postponed and rescheduled to an alternative time within 5 working days.

6.0 Right of Appeal

- 6.1 An individual has the right to appeal against any formal action taken against them in line with this policy. Should the employee wish to appeal they must lodge their appeal in writing to the nominated senior manager within 14 calendar days of the date of receipt of written confirmation of the action taken against them, stating their grounds for appeal.
- 6.2 The appeal will be heard by a senior manager who will not previously have been involved in the case. The appeal hearing will take into account any new evidence that either party may present and consider its relevance to the sanction imposed.

- 6.3 Where an appeal is upheld, reference to the caution or dismissal will be disregarded. Alternatively, the appeal could be found to be not upheld in which case the caution or dismissal will remain unchanged. The outcome of the appeal hearing may also be to impose a lesser penalty e.g. a final caution instead of dismissal, or to shorten the period for which the caution was originally issued. The outcome of the appeal will be set out in a letter to the employee.
- 6.4 If an employee is successful in appealing against summary dismissal, they will be paid in line with their contract of employment in respect of the period from dismissal to reinstatement, as if the dismissal had never taken place.



Managing Performance – Performance Improvement Plan (PIP)

Target area <i>Specific area where performance standards have not been met</i>	Performance concern <i>Specific dates and examples of where standards have not been met</i>	Expected standard of performance <i>What is expected in terms of performance</i>	Agreed improvement actions <i>What actions need to be taken to meet expected performance standard</i>	Support <i>What has been agreed in terms of support to achieve the expected performance standard</i>	Review date	Review notes <i>Detail improvement made and any further review dates</i>	Date to achieve expected standard

Plan agreed by:	Signed	Date
Manager		
Employee		

